

104TH CONGRESS
1ST SESSION

H. R. 2503

To clarify the authority of States to regulate national bank insurance activity, to limit the authority of the Comptroller of the Currency to authorize national banks to engage in new insurance activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1995

Mr. SOLOMON (for himself, Mr. BURTON, and Mr. MCINNIS) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To clarify the authority of States to regulate national bank insurance activity, to limit the authority of the Comptroller of the Currency to authorize national banks to engage in new insurance activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bank Insurance Regu-
5 lation Act of 1995”.

1 **SEC. 2. AUTHORITY OF THE COMPTROLLER OF THE CUR-**
2 **RENCY.**

3 (a) STATE SUPERVISION.—Chapter 1 of Title LXII
4 of the Revised Statutes of the United States (12 U.S.C.
5 21 et seq.) is amended—

6 (1) by redesignating section 5136A as section
7 5136B; and

8 (2) by inserting after section 5136 (12 U.S.C.
9 24) the following new section:

10 **“SEC. 5136A. STATE SUPERVISION OF INSURANCE.**

11 **“(a) STATE LICENSING OF INSURANCE ACTIVI-**
12 **TIES.—**

13 **“(1) IN GENERAL.—**Subject to paragraph (2),
14 no provision of section 5136, any other section of
15 this title, or section 13 of the Federal Reserve Act
16 may be construed as limiting or otherwise impairing
17 the authority of any State to regulate—

18 **“(A) the extent to which, and the manner**
19 **in which, a national bank may engage within**
20 **the State in insurance activities pursuant to**
21 **section 13 of the Federal Reserve Act;**

22 **“(B) the manner in which a national bank**
23 **may engage within the State in insurance ac-**
24 **tivities pursuant to section 5136(b)(2)(B) of**
25 **the Revised Statutes of the United States; or**

1 “(C) the manner in which a national bank
2 may engage within the State in insurance ac-
3 tivities pursuant to section 5136(b)(2)(A) of the
4 Revised Statutes of the United States through,
5 and limited to, consumer disclosure require-
6 ments or licensing requirements, procedures,
7 and qualifications as described in paragraph
8 (2)(C).

9 “(2) PROHIBITION ON STATE DISCRIMINATION
10 AGAINST NATIONAL BANKS.—Notwithstanding para-
11 graph (1)—

12 “(A) PROVIDING INSURANCE AS AGENT OR
13 BROKER.—No State may impose any insurance
14 regulatory requirement relating to providing in-
15 surance as an agent or broker that treats a na-
16 tional bank differently than all other persons
17 who are authorized to provide insurance as
18 agents or brokers in such State, unless there is
19 a legitimate and reasonable State regulatory
20 purpose for the requirement for which there is
21 no less restrictive alternative.

22 “(B) PROVIDING INSURANCE AS PRIN-
23 CIPAL, AGENT, OR BROKER.—

24 “(i) No State may impose on a na-
25 tional bank any insurance regulatory re-

1 quirement relating to providing insurance
2 as principal, agent, or broker that treats
3 the national bank more restrictively than
4 any other depository institution (as defined
5 in section 3(c)(1) of the Federal Deposit
6 Insurance Act) operating in the State.

7 “(ii) Nothing in this subparagraph
8 shall affect the validity of a State law
9 that—

10 “(I) prevents a national bank
11 from engaging in insurance activities
12 within the State to as great an extent
13 as a savings association (as defined in
14 section 3(b)(1) of the Federal Deposit
15 Insurance Act) may engage in such
16 activities within the State; and

17 “(II) was in effect on June 1,
18 1995.

19 “(C) LICENSING QUALIFICATIONS AND
20 PROCEDURES.—No State may discriminate
21 against a national bank with respect to the fol-
22 lowing requirements, procedures, and qualifica-
23 tions as such requirements, procedures, and
24 qualifications relate to the authority of the na-

1 tional bank to provide insurance in such State
2 as an agent or broker:

3 “(i) License application and process-
4 ing procedures.

5 “(ii) Character, experience, and edu-
6 cational qualifications for licenses.

7 “(iii) Testing and examination re-
8 quirements for licenses.

9 “(iv) Fee requirements for licenses.

10 “(v) Continuing education require-
11 ments.

12 “(vi) Types of licenses required.

13 “(vii) Standards and requirements for
14 renewal of licenses.

15 “(b) AUTHORITY OF THE COMPTROLLER OF THE
16 CURRENCY.—A national bank may not provide insurance
17 as a principal, agent, or broker except as specifically pro-
18 vided in this section, the paragraph designated as the
19 ‘Seventh’ of section 5136(a) of this chapter, or section
20 5136(b) of this chapter, or section 13 of the Federal Re-
21 serve Act.

22 “(c) PRESERVATION OF FEDERALLY AUTHORIZED
23 BANK ACTIVITIES IN PERMISSIVE STATES.—No provision
24 of this section may be construed as affecting the authority,
25 pursuant to section 13 of the Federal Reserve Act, of a

1 national bank to act as insurance agent or broker consist-
2 ent with State law.

3 “(d) PRESERVATION OF NATIONAL BANK AUTHOR-
4 ITY CONSISTENT WITH STATE BANK AUTHORITY.—Ex-
5 cept as provided in subsection (a)(2)(B), no provision of
6 this section or section 5136(b)(1) shall have the effect of
7 enabling a State to deny a national bank authority that
8 the bank otherwise possesses to provide a product in a
9 State, including as agent, broker, or principal, where the
10 bank is not providing the product in the State other than
11 to an extent and in a manner that a State bank (as de-
12 fined in section 3(a)(2) of the Federal Deposit Insurance
13 Act) is permitted by the law of the State to provide such
14 product, except that nothing in this subsection shall be
15 construed as granting any new authority to a national
16 bank to provide any product because the law of the State
17 has authorized State banks to provide such product.

18 “(e) DEFINITIONS.—For purposes of this section,
19 section 5136, and section 13 of the Federal Reserve Act,
20 the following definitions shall apply:

21 “(1) INSURANCE.—The term ‘insurance’ means
22 any product defined or regulated as insurance, con-
23 sistent with the relevant State insurance law, by the
24 insurance regulatory authority of the State in which
25 such product is sold, solicited, or underwritten, in-

1 cluding any annuity contract the income on which is
2 tax deferred under section 72 of the Internal Reve-
3 nue Code of 1986.

4 “(2) STATE.—The term ‘State’ has the same
5 meaning as in section 3(a)(3) of the Federal Deposit
6 Insurance Act.

7 “(f) GRANDFATHER PROVISION.—

8 “(1) IN GENERAL.—Any national bank which,
9 before January 1, 1995, was providing insurance as
10 agent or broker under section 13 of the Federal Re-
11 serve Act may provide insurance as an agent or
12 broker under such section, to no less extent and in
13 a no more restrictive manner as such bank was pro-
14 viding insurance as agent or broker under such sec-
15 tion on January 1, 1995, notwithstanding contrary
16 State law, subject to final, controlling judgment in
17 a pending action.

18 “(2) TERMINATION.—This subsection shall
19 cease to apply with respect to any national bank de-
20 scribed in paragraph (1) if—

21 “(A) the bank is subject to an acquisition,
22 merger, consolidation, or change in control,
23 other than a transaction to which section
24 18(c)(12) of the Federal Deposit Insurance Act
25 applies; or

1 “(B) any bank holding company which di-
2 rectly or indirectly controls such bank is subject
3 to an acquisition, merger, consolidation, or
4 change in control, other than a transaction in
5 which the beneficial ownership of such bank
6 holding company or of a bank holding company
7 which controls such company does not change
8 as a result of the transaction.”.

9 (b) INTERPRETIVE AUTHORITY OF THE COMPTROL-
10 LER OF THE CURRENCY.—Section 5136 of the Revised
11 Statutes of the United States (12 U.S.C. 24) is amend-
12 ed—

13 (1) by striking “Upon duly making and filing
14 articles of association” and inserting “(a) IN GEN-
15 ERAL.—Upon duly making and filing articles of as-
16 sociation”; and

17 (2) by adding at the end the following new sub-
18 section:

19 “(b) INTERPRETIVE AUTHORITY OF THE COMPTROL-
20 LER OF THE CURRENCY.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 it shall not be incidental to banking for a national
23 bank to provide insurance as a principal, agent, or
24 broker.

1 “(2) SCOPE OF APPLICATION.—Notwithstand-
2 ing paragraph (1), it shall be incidental to banking
3 for a national bank to engage in the following activi-
4 ties:

5 “(A) Providing, as an agent or broker, any
6 annuity contract the income on which is tax de-
7 ferred under section 72 of the Internal Revenue
8 Code of 1986.

9 “(B) Providing, as a principal, agent, or
10 broker, any type of insurance, other than an
11 annuity or title insurance, which the Comptrol-
12 ler of the Currency specifically determined, be-
13 fore May 1, 1995, to be incidental to banking
14 with respect to national banks.”.

15 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) The 11th undesignated paragraph of section
17 13 of the Federal Reserve Act (12 U.S.C. 92) is
18 amended by inserting “, and subject to section
19 5136A of the Revised Statutes of the United
20 States,” after “the laws of the United States”.

21 (2) The paragraph designated the “Seventh” of
22 section 5136 of the Revised Statutes of the United
23 States (12 U.S.C. 24) is amended by striking “sub-
24 ject to law,” and inserting “subject to subsection
25 (b), section 5136A, and any other provision of law,”.

1 (3) Section 1306 of title 18, United States
2 Code, is amended by striking “5136A” and inserting
3 “5136B”.

4 (d) CLERICAL AMENDMENT.—The table of sections
5 for chapter 1 of title LXII of the Revised Statutes of the
6 United States is amended—

7 (1) by redesignating the item relating to section
8 5136A as section 5136B; and

9 (2) by inserting after the item relating to sec-
10 tion 5136 the following new item:

“5136A. State supervision of insurance.”.

11 (e) PRESERVATION OF BANK HOLDING COMPANY IN-
12 SURANCE AUTHORITY.—No provision of this section, and
13 no amendment made by this section to any other provision
14 of law, may be construed as affecting the authority of a
15 bank holding company to engage in insurance agency ac-
16 tivity pursuant to section 4(c) of the Bank Holding Com-
17 pany Act of 1956.

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